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LABOUR & EMPLOYEES STATE INSURANCE DEPARTMENT

NOTIFICATION

The 31st January 2014

No. 780—IR(ID)-03/2013-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 18th November 2013 in Industrial Dispute Case No. 11 of 2013 of the Presiding Officer, Labour Court, Sambalpur, to whom the industrial dispute between the Management of M. Srigida Gram Panchayat, At/P.O. M. Srigida, Dist. Bargarh and its Workman Shri Bansidhar Pradhan was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER, LABOUR COURT, SAMBALPUR

INDUSTRIAL DISPUTE CASE No. 11 OF 2013

Dated the 18th November 2013

Present :

Shri Srikanta Mishra, LL.M.,
Presiding Officer,
Labour Court,
Sambalpur.

Between :

The Management of
M. Srigida Gram Panchayat,
At/P.O. M. Srigida,
Dist. Bargarh.

. . First Party—Management

And

Its Workman
Shri Bansidhar Pradhan,
At/P.O. M. Srigida,
Dist. Bargarh.

. . Second Party—Workman

Appearances :

None	. . For the First Party—Management
Self	. . For the Second Party—Workman

AWARD

1. This award arises out of a reference made by the Government of Odisha, Labour & E.S.I. Department, under the power conferred by sub-section (5) of Section 12, read with Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) (for short the "Act") vide Order under Memo. No. 2129 (5), dated the 2nd March 2013. The dispute involved under the Schedule of reference is as follows :

"Whether the action of the Sarpanch, M. Srigida Gram Panchayat in terminating the services of Shri Bansidhar Pradhan, Peon vide Letter No. 45, dated the 29th September 2007 is legal and/or justified ? If not, what relief Shri Pradhan is entitled to ?"

2. The case of the second party workman in brief is that he was employed as a Peon in M. Srigida Gram Panchayat Office in the month of April, 1997. He continued in service to the full satisfaction of his authorities but was terminated from service on the basis of a Letter No. 45, dated the 29th September 2007. According to the workman, such termination from service is illegal as neither any charge was framed against him nor he was called upon to submit any explanation before being terminated from service. The workman has also mentioned in the petition that his termination from service was based upon a letter, dated the 30th August 2007 of the District Social Welfare Officer, Bargarh who, on an enquiry, found some illegal and wrong identification of beneficiaries. The workman raised an industrial dispute before the District Labour Officer, Bargarh-cum-Conciliation Officer under the I. D. Act who could not make amicable conciliation and ultimately, submitted a failure report to the Government.

3. The first party management despite service of notice of the case did not turn up to file written statement and therefore, he was set *ex parte* vide Order, dated the 7th August 2013.

4. During the *ex parte* hearing, the workman examined himself as the sole witness and proved several documents which are marked Ext. 1 to Ext. 4.

5. The unchallenged oral and documentary evidence available on record established the fact that the second party was appointed as a Peon in the establishment of M. Srigida Gram Panchayat represented by the Sarpanch, the first party. It is also proved that the second party continued in service and performed his duties till he was terminated from service by a Letter No. 45, dated the 29th September 2007 issued by the first party. A copy of the said letter has been marked as Ext. 1. On perusal of this document, I find the Sarpanch of M. Srigida Gram Panchayat dismissed the second party from the post of Peon on the basis of a Letter No. 1542, dated the 30th August 2007 of the District Social Welfare Officer, Bargarh and Letter No. 1904, dated the 14th September 2007 of the Block Development Officer, Bijepur, so also, on the basis of the Gram Panchayat Resolution, dated the 22nd September 2007. A copy of the letter of the District Social Welfare Officer, Bargarh, dated the 30th August 2007 has been marked as Ext. 2. In this letter, the D.S.W.O. instructed the B.D.O., Bijepur to disengage the workman Shri Bansidhar Pradhan from his post for illegal and wrong identification of beneficiaries during disbursement of pension. A copy of the letter of the District Panchayat Officer, Bargarh addressed to the B.D.O., Bijepur, dated the 29th July 2011 has been marked Ext. 3. On a close perusal of the Ext. 2, I find the D.S.W.O.,

Bargarh on the basis of a grievance petition, dated the 26th May 2007 made by Manbodh Chaulia and others of M. Srigida Gram Panchayat and on the basis of Order of Collector, dated the 23rd August 2007 directed the B.D.O., Bijepur to take steps for recovery of Rs. 15,700 from one Shri Premaraj Debta, Executive Officer and to initiate Departmental Draft Charges against him for illegal disbursement of SOAP/NOAP and ODP in M. Srigida Gram Panchayat. It is not understood as to why the Executive Officer was to face departmental proceeding but the Peon was immediately asked to be dismissed from service. The first party did not think it proper to file written statement and documents, if any, in support of the legality of the action taken against the workman.

6. There is absolutely no admissible evidence to show that the second party illegally and wrongly identified anybody as beneficiary during disbursement of pension on several heads. It is crystal clear from the evidence of the second party that the first party never called upon any explanation from him in the matter of allegation relating to illegal/wrong identification of beneficiaries. In absence of any disciplinary proceeding, the workman was dismissed from service which amounts to an arbitrary and illegal action of the first party. Since the workman continued in service for about 10 years, he was entitled to a notice for termination and also payment of other benefits under the I. D. Act but the same has not been provided to him.

7. Under the above facts and circumstances, it can safely be said that the termination of service of the second party vide Letter No. 45, dated the 29th September 2007 of the first party is illegal and unjustified. Since the workman is not proved to have any fault and was terminated illegally, he is entitled to be reinstated in service and payment of full back wages particularly when there is no evidence that he was engaged in any manner from the date of termination of service till the reference was made by the Government.

Hence, the following award :—

AWARD

The reference is answered *ex parte* against the first party management without cost. The action of the Sarpanch, M. Srigida Gram Panchayat (First party management) in terminating the service of Shri Bansidhar Pradhan, Peon (Second party workman) vide Letter No. 45, dated the 29th September 2007 is illegal and unjustified. The second party Shri Pradhan is entitled to reinstatement in service with full back wages. The first party is directed to reinstate the second party workman in service within one month of publication of the award. He is further, directed to pay full back wages to the second party workman from the 29th September 2007 till date within said period, failing which the arrear wages shall carry interest @ 10% per annum.

Dictated and corrected by me.

SRIKANTA MISHRA
18-11-2013
Presiding Officer
Labour Court, Sambalpur.

SRIKANTA MISHRA
18-11-2013
Presiding Officer
Labour Court, Sambalpur.

By order of the Governor
N. BEHERA
Under-Secretary to Government